

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSE GARCIA, an incapacitated  
person,

Plaintiff,

v.

GRANDVIEW SCHOOL DISTRICT NO. 200,  
and their Board of Trustees;  
Russell K. ("Kevin") Chase,  
individually and as a School  
District employee; John W. Mathis,  
individually and as a School  
District employee; Rick Ramos,  
individually and as a School  
District employee; Barbara Merz,  
individually and as a School  
District employee; Thora Michels,  
individually and as a School  
District employee; Irma Gonzalez-  
Ramos, individually and as a  
School District employee; Diann  
Zavala, individually and as a  
School District employee,

Defendants.

No. CV-10-3118-EFS

**ORDER GRANTING PLAINTIFF'S MOTION  
FOR PARTIAL SUMMARY JUDGMENT**

**I. INTRODUCTION**

This suit arises from an October 13, 2010 Order by the Administrative Law Judge (ALJ) finding that the Grandview School District (District) denied Plaintiff Jose Garcia a free appropriate public education (FAPE) and denied Ms. Maria Sanchez, Plaintiff's mother, access to Mr. Garcia's Individualized Education Plan (IEP) meetings.

1 Plaintiff's original Complaint asserts only two claims for  
2 relief: one claim under the Individuals with Disabilities Education  
3 Act (IDEA), and one claim under Article IX § 1 of the Washington  
4 Constitution. Plaintiff's amended complaint abandons the IDEA claim  
5 and asserts the following eleven claims: discrimination under the  
6 Americans with Disabilities Act (ADA); disability-based harassment  
7 under the ADA; discrimination under Section 504 of the Rehabilitation  
8 Act; a § 1983 claim for violation of the Fourteenth Amendment right to  
9 equal protection; claims under Article I § 12 and Article IX § 1 of  
10 the Washington Constitution; a state law negligence claim; a § 1983  
11 claim for violation of the Fourteenth Amendment rights to procedural  
12 and substantive due process; a claim under Title VI of the Civil  
13 Rights Act of 1964; a discrimination claim under the Washington Law  
14 Against Discrimination (WLAD); and a state law claim for negligent  
15 hiring, training, and supervision. See ECF No. 76.

16 This matter comes before the Court on Plaintiff's Motion for  
17 Partial Summary Judgment, ECF No. 97. Plaintiff seeks partial summary  
18 judgment giving preclusive effect to the May 24, 2013 Memorandum  
19 Decision and the August 30, 2013 Findings of Fact and Conclusions of  
20 Law and Order entered in *Grandview School District No. 200 v. Maria*  
21 *Sanchez and Jose Garcia*, No. 11-2-00084-1, Yakima County Superior  
22 Court, arguing the District should be collaterally estopped from  
23 asserting it provided Mr. Garcia with a FAPE under the IDEA.

24 For the reasons set forth below, the Court finds that no genuine  
25 issues of material fact preclude partial summary judgment and for the  
26 following reasons grants Plaintiff's motion.

**II. BACKGROUND**<sup>1</sup>

On January 15, 2010, Ms. Sanchez filed a Due Process Hearing Request with the Office of Superintendent of Public Instruction (OSPI) on behalf of her son, Mr. Garcia. The Complaint was forwarded to the Office of Administrative Hearings for assignment to an ALJ. On June 11, 2010, the ALJ found that Ms. Sanchez was not bound by the two-year statute of limitations set forth in the IDEA because the District withheld information required to be provided under the IDEA. During the summer of 2010, the ALJ heard an additional sixteen days of testimony and admitted several hundred pages of documents. The ALJ issued a decision setting forth its findings of fact and conclusions of law, on October 13, 2010, finding the District failed to provide Mr. Garcia a FAPE in accordance with the IDEA and State law. As a remedy for these violations, the ALJ ordered Ms. Sanchez to choose the services of either Dr. Marlowe or Ms. White to evaluate Mr. Garcia; Ms. Sanchez would be reimbursed for the costs. The District was also ordered to contract with Dr. Marlowe and Ms. White to "design and implement" an appropriate program for Mr. Garcia within sixty days of the ALJ's October 13, 2010 Order, with the District bearing all costs associated with that plan.

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<sup>1</sup> In ruling on the motion for summary judgment, the Court has considered the facts and all reasonable inferences therefrom as contained in the submitted affidavits, declarations, and exhibits, in the light most favorable to the party opposing the motion - here, the Defendant. See *Leslie v. Grupo ICA*, 198 F.3d 1152, 1158 (9th Cir. 1999).

1 After the sixty days passed on December 13, 2010, Plaintiffs  
2 filed their Complaint before this Court for declaratory judgment,  
3 injunctive relief, and damages on December 16, 2010, alleging that the  
4 District failed to develop and implement an appropriate educational  
5 program as required by the IDEA, 20 U.S.C. § 1401 et seq., the  
6 Rehabilitation Act, 29 U.S.C. § 794, and the ADA, 42 U.S.C. 1210 et  
7 seq., and sought immediate enforcement of the October 13, 2010  
8 Administrative Order.

9 On January 11, 2011, the District filed a petition with the  
10 Superior Court of Yakima County requesting judicial review of the  
11 ALJ's October 13, 2010 decision. In the petition the District  
12 asserted that the ALJ erred in three ways: 1) in applying an exception  
13 to the 2-year statute of limitations, 2) in determining that it failed  
14 to provide a FAPE under 20 U.S.C. § 1400 and the IDEA, and 3) in  
15 granting the remedy of a 6-year private placement compensatory  
16 education. The Yakima County Superior Court, after considering the  
17 7,000 page administrative record and holding a three-day hearing  
18 during which the court allowed both parties to submit the testimony of  
19 additional witnesses including the testimony of Dr. Carl Field and  
20 Deborah Hill, Ph.D., issued a Memorandum Decision on May 24, 2013, and  
21 a Findings of Fact and Conclusions of Law and Order on August 30,  
22 2013. The Yakima County Superior Court found that the ALJ correctly  
23 applied an exception to the two-year statute of limitations and that  
24 the District failed to provide a FAPE under 20 U.S.C. § 1400 and the  
25 IDEA. The court further found that the ALJ's six-year award was  
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1 punitive and went beyond the IDEA-authorized remedy and reduced the  
2 private placement compensatory education to four years.

### 3 **III. DISCUSSION**

#### 4 **A. Legal Standards**

5 Summary judgment is appropriate if the "pleadings, the discovery  
6 and disclosure materials on file, and any affidavits show that there  
7 is no genuine issue as to any material fact and that the moving party  
8 is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).  
9 Once a party has moved for summary judgment, the opposing party must  
10 point to specific facts establishing that there is a genuine issue for  
11 trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). If the  
12 nonmoving party fails to make such a showing for any of the elements  
13 essential to its case for which it bears the burden of proof, the  
14 trial court should grant the summary judgment motion. *Id.* at 322.  
15 "When the moving party has carried its burden under Rule 56(c), its  
16 opponent must do more than simply show that there is some metaphysical  
17 doubt as to the material facts. . . . [T]he nonmoving party must come  
18 forward with 'specific facts showing that there is a genuine issue for  
19 trial.'" *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S.  
20 574, 586-87 (1986) (internal citation omitted) (emphasis in original).

21 When considering a motion for summary judgment, the Court does  
22 not weigh the evidence or assess credibility; instead, "the evidence  
23 of the non-movant is to be believed, and all justifiable inferences  
24 are to be drawn in his favor." *Anderson v. Liberty Lobby, Inc.*, 477  
25 U.S.242, 255 (1986).

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1 **B. Analysis**

2 Plaintiff seeks partial summary judgment on the issue of  
3 collateral estoppel. Plaintiff asserts that the decision of the  
4 Yakima County Superior Court should be given preclusive effect under  
5 the doctrine of collateral estoppel. Specifically, Plaintiff argues  
6 that the Superior Court's finding that the District failed to provide  
7 a FAPE under the IDEA should preclude the District from asserting  
8 before this Court that it provided Mr. Garcia with a FAPE under the  
9 IDEA.

10 A federal court considering whether to apply issue preclusion  
11 based on a prior state court judgment must look to state preclusion  
12 law. *McInnes v. California*, 943 F.2d 1088, 1092-93 (9th Cir. 1991).  
13 See also *W. Coast Theater Corp. v. City of Portland*, 897 F.2d 1519,  
14 1525 (9th Cir. 1990) ("[A] federal court must give to a state court  
15 judgment the same preclusive effect as would be given that judgment  
16 under the law of the state in which the judgment was rendered.")  
17 Accordingly, the Court looks to Washington's law of issue preclusion.

18 Under Washington law, issue preclusion or collateral estoppel  
19 requires the party seeking preclusion to establish that:

20 (1) the issue decided in the earlier proceeding was  
21 identical to the issue presented in the later proceeding,  
22 (2) the earlier proceeding ended in a judgment on the  
23 merits, (3) the party against whom collateral estoppel is  
24 asserted was a party to, or in privity with a party to, the  
25 earlier proceeding, and (4) application of collateral  
26 estoppel does not work an injustice on the party against  
whom it is applied.

*Christensen v. Grant Cnty. Hosp. Dist. No. 1*, 152 Wn.2d 299, 307  
(2004). Collateral estoppel may be applied to preclude only issues

1 that were litigated and finally determined in the earlier proceeding,  
2 and the party against whom it is asserted must have had a full and  
3 fair opportunity to litigate the issue. *Id.* at 306.

4 First, Defendant asserts the issues before this Court (ADA and  
5 negligence claims) are different than the IDEA claim presented to the  
6 Superior Court, including different standards of proof. However, to  
7 the extent that Mr. Garcia brings before this Court on partial summary  
8 judgment the sole issue of "estopping the District from asserting or  
9 claiming in this case that it provide Jose Garcia with a FAPE under  
10 the IDEA," ECF No. 101 at 5, the identical issue of providing a FAPE  
11 was presented and decided in the earlier proceeding. See ECF No. 97-3  
12 at 1. Defendants are correct that the Superior Court did not address  
13 ADA or negligence issues, but those are not the issues for which  
14 Plaintiff seeks collateral estoppel. Accordingly, as to the issue for  
15 which collateral estoppel is sought the earlier proceeding was  
16 presented with the identical issue, to wit: whether the District  
17 provided Mr. Garcia with a FAPE under the IDEA.

18 Second, as is clear from the Superior Court's finding that  
19 "[t]he District has denied the Student a free appropriate public  
20 education," ECF No. 97-4 at 37, the earlier proceeding reached the  
21 merits of the IDEA claim.

22 As to the third requirement, there is no dispute that Plaintiff  
23 seeks collateral estoppel against the same party, the District, that  
24 the Superior Court ruled against in the earlier proceeding.

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1 Finally, as to injustice, the Court finds the District had a  
2 full and fair hearing before both the ALJ and the Superior Court. The  
3 ALJ conducted an extensive sixteen-day hearing and received thousands  
4 of pages of documents. The District then received a three-day hearing  
5 before the Superior Court, including the presentation of additional  
6 evidence, including the expert testimony of Dr. Carl Field and Deborah  
7 Hill, Ph.D. Thus, the District received two separate hearings on the  
8 issue of providing a FAPE under the IDEA, so no injustice will occur  
9 if the District is prevented from again litigating the issue before  
10 this Court.

11 Accordingly, the Court finds Plaintiff has sufficiently  
12 established that under Washington law, collateral estoppel applies to  
13 the issue of whether the District provided Mr. Garcia with a FAPE  
14 under the IDEA.

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